



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

PRO-TECTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA CA 95070

COPY MAILED

APR 21 2006

OFFICE OF PETITIONS

In re Application of :
Chung Hsien Hsin : DECISION ON PETITION
Application No. 10/621,963 : UNDER 37 C.F.R. §1.181(A)
Filed: July 16, 2003 :
Attorney Docket Number: 2011123 :
Title: IMAGE SENSOR AND METHOD :
FOR MANUFACTURING THE SAME :

This is a decision on the petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment, filed on January 17, 2006.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR §1.113 in a timely manner to the final Office action mailed May 11, 2005, which set a shortened statutory period for reply of three (3) months. On August 2, 2005, Petitioner attempted to submit a terminal disclaimer, but this submission was not accepted by the Examiner, as the attorney was not of record. Consequently, an advisory action was mailed on August 15, 2005. No further submissions were received, and no extensions of time under the provisions of 37 CFR §1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 12, 2005.

With the present petition, Petitioner has submitted a Power of Attorney, which has been entered and made of record.

RELEVANT PORTIONS OF THE C.F.R. and MPEP

37 C.F.R. §1.34 sets forth:

When a registered patent attorney or patent agent acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party in whose behalf he or she acts. In filing such a paper, the registered patent attorney or patent agent must specify his or her registration number and name with his or her signature. Further proof of authority to act in a representative capacity may be required.<

MPEP §402 states, in part:

Power of Attorney; Acting in a Representative Capacity

In accordance with 37 CFR 1.34, a paper filed by a registered patent attorney or agent in an application in which he or she is not of record must include his or her name and registration number with his or her signature. Acceptance of papers filed in patent applications and reexamination proceedings by registered attorneys and agents upon a representation that the attorney or agent is authorized to act in a representative capacity is for the purpose of facilitating replies on behalf of applicants in patent applications (emphasis added) and, further, to obviate the need for filing powers of attorney in individual applications or patents when there has been a change in composition of law firms or corporate patent staffs. Interviews with a registered attorney or agent not of record will, in view of 35 U.S.C. 122, be conducted only on the basis of information and files supplied by the attorney or agent. A person acting in a representative capacity may not sign (emphasis added) (A) a power of attorney 37 CFR 1.32(b)(4)), (B) a document granting access to an application (except where an executed oath or declaration has not been filed, and the patent practitioner was named in the papers accompanying the application papers - 37 CFR 1.14(c)), (C) a change of correspondence address (except where an executed oath or declaration has not been filed, and the patent practitioner filed the application - 37 CFR 1.33(a)), (D) a terminal disclaimer (emphasis added) (37 CFR 1.321(b)(1)(iv)), or (E) a request for an express abandonment without filing a continuing application (37 CFR 1.138(b)).

ANALYSIS

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

Petitioner both submitted and signed the terminal disclaimer, and this same attorney represented that he was acting in a representative capacity. As set forth in the portion of the MPEP reproduced above, a person acting in a representative capacity may not sign a terminal disclaimer. Therefore the terminal disclaimer could not have been entered, and the Examiner properly refused to enter the same.

With this petition, Petitioner has requested that the holding of abandonment be withdrawn, but has not proffered any reason why this request should be granted. As the decision not to enter the terminal disclaimer was the correct course of action, this request cannot be entertained.

Therefore, the petition under 37 C.F.R. §1.181 must be **DISMISSED**.

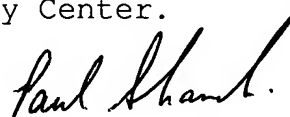
CONCLUSION

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.181." This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may wish to consider filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

Any subsequent petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail¹, hand-delivery², or facsimile³.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

2 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

3 (571) 273-8300- please note this is a central facsimile number.